

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00138

GARY F. FRIDLEY, II

**MEMORANDUM OPINION AND ORDER**

Pending before the court is the motion of defendant to continue the trial and pretrial deadlines, including reestablishing a deadline for the filing of pretrial motions and for a finding of excludable time under the Speedy Trial Act. (ECF No. 25.) In support of defendant's motion, counsel for defendant explains that additional time is needed to independently review all discovery received and confer with the defendant on how best to proceed. To further substantiate the need for a continuance, counsel tested positive for COVID-19 on February 21, 2023. The government does not object to a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion

"would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(7)(B)(iv).


Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to **April 6, 2023**;
2. The Pretrial Motions Hearing is continued to **April 18, 2023, at 2:30 a.m.** in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by **May 2, 2023**;
4. Trial of this action is continued to **May 9, 2023, at 9:30 a.m.** in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

**IT IS SO ORDERED** this 22nd day of February, 2023.

ENTER:

  
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David A. Faber  
Senior United States District Judge